IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.2020 OF 1992

Kachardas Shankarlal Karwa,
Occupation: Business, residing
at: At & Post Nandgaon, Taluka
Nandgaon, District Nasik. .... Petitioner

- Versus -

Shrikrishna Laduram Sharma,
Occupation: Service, residing
at : At & Post Nandgaon,
Taluka Nandgaon,
District: Nasik. .... Respondent

Shri Prasad Dani for the Petitioner.

Sarvasri Shailesh P. Pansare for M.D.
Angal for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: SEPTEMBER 22, 2004

ORAL JUDGMENT:

1. Heard the learned Advocates for the petitioner and the respondents. Perused the records.

2. The petitioner challenges the judgment and order dated 26-3-1991 passed by the lower Appellate Court in Civil Appeal No.415 of 1989 as well as the decree of eviction passed by the trial Court on 26-6-1989 in Regular Civil Suit No.137 of 1982.

3. The respondent herein filed a civil suit for

eviction of the petitioner on two grounds, namely, default in payment of rent and secondly, non-user of the premises without sufficient cause over a period of six months preceding the institution of the suit. The trial Court, after considering the evidence led by the parties, decreed the suit on both the grounds, and the lower Appellate Court refused to interfere in the said decree of eviction passed against the petitioner. It is also to be noted that the decree of eviction has already been executed and the possession of the suit premises has been taken over by the respondent.

4. The concurrent findings arrived at reveal that the respondent had sent the required statutory notice dated 8-4-1982 demanding the arrears of rent for the period from 1-1-1978 till March, 1982 by registered post and the postal acknowledgement reveal receipt of the said notice by the petitioner though the petitioner had sought to contend that he had not received the said notice. The Courts below, on analysis of the evidence on record in that regard, have rejected the contention of the petitioner and held that the notice was duly served upon the petitioner. It is undisputed fact and the concurrent findings also reveal that the petitioner did not bother to lead cogent evidence as regards the payment of rent in relation to the period for which the respondent had accused the petitioner of having been in

default of payment of rent. Once it was clearly established by the respondent that he had complied with the statutory requirement regarding service of the notice in relation to the default in payment of rent by the petitioner, it was necessary for the petitioner, as rightly observed by the lower Appellate Court, to discharge the burden about the payment of rent claimed by the respondent. Once both the Courts on analysis of the evidence had arrived at the concurrent findings about the failure on the part of the petitioner to establish the payment of rent and the petitioner being unable to substantiate his contention about the said finding being either perverse or not borne out from the records, it goes without saying that such a finding would not warrant interference in writ jurisdiction.

5. Once in a suit for eviction of the tenant on various grounds, the landlord succeeds in establishing any one of the grounds, which can warrant eviction of the tenant from the suit premises, irrespective of the fact that the landlord may fail in establishing the other grounds, the decree of eviction confirmed by the lower Appellate Court would not warrant interference in writ jurisdiction. That apart, the finding by the lower Appellate Court as regards the non-user of the premises also disclose that the petitioner had not been able to satisfy the Court about the sufficient cause for

non-user of the premises.

6. In the facts and circumstances of the case, therefore, the petitioner having failed to make out a case for interference in the impugned order confirming the eviction decree, the petition fails and is hereby dismissed. The rule is discharged with no order as to costs.